



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2559

Introduced 1/11/2012, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/104-18  
725 ILCS 5/104-23

from Ch. 38, par. 104-18  
from Ch. 38, par. 104-23

Amends the Code of Criminal Procedure of 1963 relating to progress reports of defendants found unfit to stand trial. Provides that whenever the court is sent a report from the supervisor of the defendant's treatment, the treatment provider shall arrange for the return of the defendant to the county jail within a specified period before the discharge hearing. Provides that the discharge hearing shall be held within 14 (rather than 120) days of the filing of a motion for a discharge hearing, unless good cause is demonstrated why the hearing cannot be held or the delay is occasioned by the defendant. Effective immediately.

LRB097 14462 RLC 59314 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Sections 104-18 and 104-23 as follows:

6 (725 ILCS 5/104-18) (from Ch. 38, par. 104-18)

7 Sec. 104-18. Progress Reports.) (a) The treatment  
8 supervisor shall submit a written progress report to the court,  
9 the State, and the defense:

10 (1) At least 7 days prior to the date for any hearing on  
11 the issue of the defendant's fitness;

12 (2) Whenever he believes that the defendant has attained  
13 fitness;

14 (3) Whenever he believes that there is not a substantial  
15 probability that the defendant will attain fitness, with  
16 treatment, within one year from the date of the original  
17 finding of unfitness.

18 (b) The progress report shall contain:

19 (1) The clinical findings of the treatment supervisor and  
20 the facts upon which the findings are based;

21 (2) The opinion of the treatment supervisor as to whether  
22 the defendant has attained fitness or as to whether the  
23 defendant is making progress, under treatment, toward

1 attaining fitness within one year from the date of the original  
2 finding of unfitness;

3 (3) If the defendant is receiving medication, information  
4 from the prescribing physician indicating the type, the dosage  
5 and the effect of the medication on the defendant's appearance,  
6 actions and demeanor.

7 (c) Whenever the court is sent a report from the supervisor  
8 of the defendant's treatment pursuant to subparagraph (2) or  
9 (3) of paragraph (a) of this Section, the treatment provider  
10 shall arrange for the return of the defendant to the county  
11 jail before the time frame specified in subparagraph (b) (1) of  
12 Section 104-23.

13 (Source: P.A. 81-1217.)

14 (725 ILCS 5/104-23) (from Ch. 38, par. 104-23)

15 Sec. 104-23. Unfit defendants. Cases involving an unfit  
16 defendant who demands a discharge hearing or a defendant who  
17 cannot become fit to stand trial and for whom no special  
18 provisions or assistance can compensate for his disability and  
19 render him fit shall proceed in the following manner:

20 (a) Upon a determination that there is not a substantial  
21 probability that the defendant will attain fitness within one  
22 year from the original finding of unfitness, a defendant or the  
23 attorney for the defendant may move for a discharge hearing  
24 pursuant to the provisions of Section 104-25. The discharge  
25 hearing shall be held within 14 ~~120~~ days of the filing of a

1 motion for a discharge hearing, unless good cause is  
2 demonstrated why the hearing cannot be held or the delay is  
3 occasioned by the defendant.

4 (b) If at any time the court determines that there is not a  
5 substantial probability that the defendant will become fit to  
6 stand trial or to plead within one year from the date of the  
7 original finding of unfitness, or if at the end of one year  
8 from that date the court finds the defendant still unfit and  
9 for whom no special provisions or assistance can compensate for  
10 his disabilities and render him fit, the State shall request  
11 the court:

12 (1) To set the matter for hearing within 14 days  
13 pursuant to Section 104-25 unless good cause is  
14 demonstrated why the hearing cannot be held or a hearing  
15 has already been held pursuant to paragraph (a) of this  
16 Section; or

17 (2) To release the defendant from custody and to  
18 dismiss with prejudice the charges against him; or

19 (3) To remand the defendant to the custody of the  
20 Department of Human Services and order a hearing to be  
21 conducted pursuant to the provisions of the Mental Health  
22 and Developmental Disabilities Code, as now or hereafter  
23 amended. The Department of Human Services shall have 7 days  
24 from the date it receives the defendant to prepare and file  
25 the necessary petition and certificates that are required  
26 for commitment under the Mental Health and Developmental

1           Disabilities Code. If the defendant is committed to the  
2           Department of Human Services pursuant to such hearing, the  
3           court having jurisdiction over the criminal matter shall  
4           dismiss the charges against the defendant, with the leave  
5           to reinstate. In such cases the Department of Human  
6           Services shall notify the court, the State's attorney and  
7           the defense attorney upon the discharge of the defendant. A  
8           former defendant so committed shall be treated in the same  
9           manner as any other civilly committed patient for all  
10          purposes including admission, selection of the place of  
11          treatment and the treatment modalities, entitlement to  
12          rights and privileges, transfer, and discharge. A  
13          defendant who is not committed shall be remanded to the  
14          court having jurisdiction of the criminal matter for  
15          disposition pursuant to subparagraph (1) or (2) of  
16          paragraph (b) of this Section.

17          (c) If the defendant is restored to fitness and the  
18          original charges against him are reinstated, the speedy trial  
19          provisions of Section 103-5 shall commence to run.

20          (Source: P.A. 89-439, eff. 6-1-96; 89-507, eff. 7-1-97.)

21          Section 99. Effective date. This Act takes effect upon  
22          becoming law.